IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

CRL.A.No. 1297 of 2006()

AGAINST THE ORDER IN CRLP.176/2006 Dated 22/03/2006
CC.127/2002 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY

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APPELLANT: COMPLAINANT

P.N.SATHYAN, PARKUDIYIL HOUSE,
VENKIDA, B.K.PURAM.P.O, PUTHENCRUZ,
REP. BY ITS POWER OF ATTORNEY HOLDER RENUKA
SATHYAN, PARKUDIYIL HOUSE, VENKIDA,
B.K.PURAM.P.O, PUTHENCRUZ.

BY ADV. SRI.BIJU .C. ABRAHAM

RESPONDENTS: ACCUSED AND STATE

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1. C.S.NATARAJAN, S/O.SANKARAN ACHARI,
CHENNERIKUDIYIL, VENKIDA,
B.K.PURAM.P.O, PUTHENCRUZ.

2. STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI THOMAS JOHN AMBOOKAN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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Crl.A No. 1297 of 2006 (A)

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Dated this the 14th day of February, 2007

J U D G M E N T

The complainant in C.C.No.127/2002 on the file of the Judicial Magistrate of the First Class, Kolencherry, is the appellant. The complaint preferred by the appellant, under Section 138 of the Negotiable Instruments Act, was dismissed for the non appearance of the complainant, on the date when it was posted for taking evidence. Therefore, the complainant preferred this appeal after obtaining leave. Though the notice is served and the service is complete, in respect of the first respondent accused, there is no representation or appearance.

2. After hearing the counsel for the appellant and considering the circumstances submitted by him, I set aside the impugned order, dated 29/11/2005, and restore C.C.No. 127/2002 to the file of the Judicial Magistrate of the First Class, Kolencherry.

3. The appellant shall appear before the court below on 19/03/2007.

4. As the respondent accused is not before this Court, coercive steps shall be taken against the first accused and, on his production/appearance, the case shall be disposed of, within two months from that date, as the offence has been committed in the year 2001.

Appeal is allowed as above.

(J.M.JAMES)
Judge

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J.M.JAMES, J.

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Crl.A No. 1297 of 2006 (A)

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J U D G M E N T

14th February, 2007